

REMARKS

Claims 1 - 20 are presently pending in the application. Claims 1 - 2 and 7 - 8 have been amended.

I. Examiner's Rejection under 35 U.S.C. § 112, Second Paragraph

The Examiner objects to the term "in the vicinity" as the term is used in independent claims 1, 7, 13 and 17. For the following reasons, this rejection is respectfully traversed.

Phrases such as "substantially," "closely approximate," "substantially at," and "in the vicinity," have all been held to be proper claim language, so long as the term used serves reasonably well to describe the subject matter: (1) so that its scope would be understood by persons in the field of the invention, and (2) to distinguish the claimed subject matter from the prior art. Moreover, such language is warranted to secure the invention in order to accommodate minor variations. Verve, LLC v. Crane Cams, Inc., 2002 U.S. App. Lexis 23565 (Fed. Cir. 2002)(citing to Andrew Corp. v. Gabriel Elecs. Inc., (Fed. Cir. 1988)(citations omitted)).

The Scope is Understood by Persons in the Field of Invention

One in the field of invention readily understands that "in the vicinity" means near or approximate to the far field pattern position. Respectfully, "in the vicinity" is reasonable language to accommodate the potential minor variations in the placement of the aperture of the present invention. This is understood by persons in the field of invention especially in the light that Merriam-Webster defines "in the vicinity" as "[t]he quality or state of being near,"

(www.merriam-webster.com (2002)). Furthermore, the term is used in the U.S. Manual of Patent Classification, wherein a U.S.P.T.O. website search for “in the vicinity” turns up over 60 recitations, the term being used in everything from packaging materials to surgery to dentistry to solid state devices to radio frequency transmittals and safety equipment to *ad infinity*. Surely if it is clear enough to be understood in the Manual of Patent Classification by many persons across many fields of endeavor, then its use in the present invention is also clear enough to be understood.

“In the Vicinity” Positively Distinguishes the Claimed Subject Matter from the Prior Art

The Examiner states as a reason for allowance on page five of the present Office Action that the prior art at least fails to teach an aperture being located at a far field pattern position. Certainly, further stating that the aperture is near to a far field pattern position is descriptive enough to describe the invention with precision appropriate to the technology and without intruding on the prior art. U.S.P. Nos. 5,526,166 (Genovese) and 4,390,235 (Minoura)(“the prior art”), whether combined or taken alone, not only fail to teach or suggest the aperture being located at a far field pattern position, the prior art continues to be deficient in not teaching or suggesting the aperture being located in the vicinity of a far field pattern position. Indeed, the use of the term “in the vicinity” is precise, clearly defining over the prior art while avoiding a strict numerical boundary to a specified parameter. Accepting the harsh limitation of locating the aperture precisely at a far field pattern position unduly limits the scope of the present invention. Accordingly, it is respectfully requested that the Examiner withdraw his objection to this reasonable claim limitation.

In view of the above, independent claims 1, 7, 13 and 17 are clearly patentable. Moreover, dependent claims 2 - 6, 8 - 12, 14 - 16 and 18 - 20 are clearly patentable at least by virtue of their dependency upon their respective base claim. As such, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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WASHINGTON OFFICE



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PATENT TRADEMARK OFFICE

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APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

The claims are amended as follows:

1. (Amended) An optical system for use in scanning a surface, the optical system comprising:

a light source including a broad light emission area comprising point-like light sources arranged in at least one direction;

a group of lenses which condenses a light beam emitted from the light source to a surface to be scanned;

a magnification changer for changing magnification of the group of lenses; and

an aperture [provided] disposed at or in the vicinity of a far field pattern position on an optical path of the light beam and having an opening in which only a portion of the light beam is transmitted therethrough.

2. (Amended) The optical system of claim 1, wherein the light source is capable of emitting multiple light beams simultaneously [, and the aperture is disposed at or in the vicinity of a far-field pattern of the multiple light beams].

7. (Amended) An optical system for use in scanning a surface, the optical system comprising:

a light source including a broad light emission area comprising point-like light sources arranged in at least one direction;

a lens group which condenses a light beam emitted from the light source to a surface to be scanned;

a magnification changer which moves at least one lens of the lens group along an optical axis direction of the light beam for changing magnification of the lens group; and

an aperture [provided] disposed at or in the vicinity of a far field pattern position on an optical path of the light beam and including an opening which transmits only a portion of the light beam therethrough.

8. (Amended) The optical system of claim 7, wherein the light source is capable of emitting multiple light beams simultaneously [, and the aperture is disposed at or in the vicinity of a far-field pattern of the multiple light beams].